

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	4:CR-04-0293
v.	:	
	:	
PATRICIA DIEBLER	:	(Judge Muir)
	:	

**ORDER**

August 26, 2005

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Defendant Patricia Diebler awaits sentencing after having pled guilty to a two-count indictment charging her with conspiracy to distribute and possess with intent to distribute in excess of 500 grams of methamphetamine in violation of 21 U.S.C. § 846, and obstruction of justice in violation of 18 U.S.C. § 1503. A pre-sentence conference was held on July 19, 2005. On July 20, 2005, we issued an order in which we, *inter alia*, established a briefing schedule on the sentencing factors set forth in 28 U.S.C. § 3553(a).

On August 2, 2005, the government timely filed its brief. On August 18, 2005, Diebler timely filed her responsive sentencing brief. The government filed its reply brief on August 23, 2005, but for the reasons discussed below we are of the view that this case may not yet proceed to sentencing.

In her brief Diebler disputes a host of material facts concerning her involvement in the charged offenses, many of which

were set forth in the pre-sentence report and to which Diebler did not object. The government contends in its reply brief that Diebler's current position disqualifies her for the three-level downward adjustment set forth in paragraph 28 of the pre-sentence report, which Diebler had received for her purported acceptance of responsibility.

We will require Diebler to respond to the government's reply brief by way of a sur-reply brief. Diebler's brief shall squarely address the issue of whether she remains entitled to the three-level downward adjustment for acceptance of responsibility in the light of the factual disputes discussed in her initial sentencing brief. After Diebler files her sur-reply brief, we will allow either party to file a motion for a hearing to resolve any disputed facts which have any bearing on Diebler's sentence.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Diebler shall, within 15 days after this order, file a sur-reply brief addressing the issue of whether she remains entitled to the three-level downward adjustment for acceptance of responsibility in light of the factual disputes discussed in her initial sentencing brief.
2. Either party may, within 10 days after the filing of Diebler's sur-reply brief, file a motion for a pre-sentence hearing to resolve any disputed facts which

may affect Diebler's sentence.

s/Malcolm Muir  
MUIR, U.S. District Judge

MM:ga